

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

LIONEL BRUCE KYLES,
77000-74703

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:19cv440-TSL-RHW

HINDS COUNTY DETENTION DIVISION
SERVICES, SHERIFF VICTOR P.
MASON, and WARDEN R. FIELDER

DEFENDANTS

MEMORANDUM OPINION AND ORDER OF PARTIAL DISMISSAL

This matter is before the court sua sponte. Pro se plaintiff Lionel B. Kyles is a pretrial detainee at the Hinds County Detention Center in Jackson, Mississippi. He challenges the conditions of his prior confinement at the Hinds County Detention Center in Raymond. The court has considered and liberally construed the pleadings. As set forth below, defendant Hinds County Detention Division Services is dismissed.

BACKGROUND

On April 25, 2019, Kyles alleges that he was attacked by several inmates while housed at the Hinds County Detention Center in Raymond. As a result, he claims that his ribs and teeth were broken and his lung was punctured.

The day prior to this incident, Kyles had allegedly informed defendant Warden R. Fielder that he did not feel safe on his housing zone and asked to be moved to another zone, but

he was not. Kyles also alleges that the locks on the cells were faulty and there was a lack of staff in the housing areas, which caused him to be attacked. For this, he blames defendant Sheriff Victor P. Mason.

Kyles filed this Complaint under 42 U.S.C. § 1983. Besides the Sheriff and Warden, Kyles also sues the "Hinds County Detention Division Services" for the alleged failure to protect him. (Compl. at 1). He seeks compensatory damages.

DISCUSSION

The Prison Litigation Reform Act of 1996, applies to prisoners proceeding in forma pauperis in this court. The statute provides in pertinent part, "the court shall dismiss the case at any time if the court determines that . . . the action . . . (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). The statute "accords judges not only the authority to dismiss a claim based on an indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless." Denton v. Hernandez, 504 U.S. 25, 32 (1992). "[I]n an action proceeding

under [28 U.S.C. § 1915, a federal court] may consider, sua sponte, affirmative defenses that are apparent from the record even where they have not been addressed or raised." Ali v. Higgs, 892 F.2d 438, 440 (5th Cir. 1990). "Significantly, the court is authorized to test the proceeding for frivolousness or maliciousness even before service of process or before the filing of the answer." Id. The court has permitted Kyles to proceed in forma pauperis in this action. His Complaint is subject to sua sponte dismissal under § 1915.

Among others, Kyles sues the County Detention Division, i.e., its jail. The jail's capacity to be sued are determined by Mississippi law. Fed. R. Civ. P. 17(b)(3). In Mississippi, a county jail is not a separate legal entity which may be sued, rather it is an extension of the county. Tuesno v. Jackson, No. 5:08cv302-DCB-JMR, 2009 U.S. Dist. LEXIS 61416 at *2-3 (S.D. Miss. Apr. 30, 2009); Brown v. Thompson, 927 So. 2d 733, 737 (¶12) (Miss. 2006) (sheriff's department). Therefore, the Hinds County Detention Division Services is dismissed.

IT IS THEREFORE ORDERED AND ADJUDGED that, for the reasons stated above, defendant Hinds County Detention Division Services should be, and is hereby, **DISMISSED WITH PREJUDICE** as frivolous.

The remainder of this case shall proceed.

SO ORDERED AND ADJUDGED, this the 9th day of September,
2019.

/s/Tom S. Lee

UNITED STATES DISTRICT JUDGE